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K. Scott O'Brian
Greensfelder, Hemker & Gale, P.C
Intellectual Property Group
10 South Broadway, Suite 2000
St. Louis, MO 63102-1774

EXAMINER

WEEKS, GLORIA R

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,029

Applicant(s)

STORK ET AL.

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20 b is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Election/Restrictions

1. Applicant's election with traverse of claims 1-20 in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the method of claim 21 is related to the apparatus of claims 1-20. This is not found persuasive because although Examiner agrees that the method and apparatus claimed are related, they include separate limitations that would burden the Examiner with a separate and different search.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 21 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the film sealing and cutting apparatus" in line 24. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fosshage (USPN 5,894,709) in view of Neagle et al. (USPN 6,484,475).

In reference to claims 1-17, Fosshage discloses a selectively reconfigurable shrink-wrap machine for use with a loading device for individually wrapping products sequentially comprising: a sensor (column 13, lines 43-50) associated with propelling means (14); a film supply (18); a wrapping station (26; column 6, lines 41-55); a first conveyor (13) for carrying products wrapped in the film material (20) between the wrapping station (26) and the sealing and cutting station (29); a second conveyor (30); the film sealing and cutting apparatus (29) having an upper head (39) and lower head (80), at least one head which is driven for movement into and out of engagement with the other head by a servomotor (column 11, lines 28-29) and maintaining a fixed angle of orientation relative to a direction of movement of products (A) along the first conveyor (13), the second conveyor (30) being disposed adjacent the film sealing and cutting apparatus (29) for receiving wrapped products (A) sequentially from the sealing and cutting apparatus (29) as they are delivered from the first conveyor (13); a selectively programmable microprocessor-driven control system having a touch sensitive viewing and controlling means permitting an operator to selectively input a plurality of dimensions and parameters (column 12, lines 9-18). Both the first (13) and second (30) conveyor are driven by servomotors (column 11, lines 21-24). Fosshage also discloses the upper and lower heads (39, 80) being driven in a closed, predetermined, circular path (figure 2). Fosshage does not disclose a loading device and a variation in the speeds between the loading device, the first conveyor, and the second conveyor.

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Neagle et al. teaches a shrink-wrap machine comprising: a loading device (12) which is driven at a velocity greater than that of a first conveyor (38), and a second conveyor (40) being driven at a lower velocity than the first conveyor (38) for the purpose of having a continuous process of packaging while allowing each station to which the conveyors are connected to process the articles being packaged at different rates. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the shrink-wrap machine of Fosshage to include the loading device and conveyors of different velocities taught by Neagle et al. for the purpose in which the loading device and conveyors are used in Neagle et al. (column 5, lines 5-33)

The modified shrink-wrap machine of Fosshage in view of Neagle et al. teaches a loading device (Neagle et al.-12) coordinated and synchronized (Neagle et al.-column 5, lines 1-4) with the first conveyor (Fosshage-13; Neagle et al.-38) whereby the sensor generates signals for synchronization (Fosshage-column 13, lines 43-50; Neagle et al.-column 3, line 65-column 4, line 7; column 5, lines 30-33).

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fosshage (USPN 5,894,709) in view of Neagle et al. (USPN 6,484,475) as applied to claim 1 above, and further in view of Dean (USPN 3,795,370).

Regarding claim 18, Fosshage in view of Neagle et al. discloses a shrink-wrap machine wherein the film supply (Fosshage-19) including a film delivery apparatus having a vertical support member, a spindle member including a non-rotatable central shaft (Fosshage-shaft reel 19 is suspended on) with a proximal end to the vertical support member, an outside shaft (Fosshage-core of reel 19), and an adjustment collar. Fosshage in view of Neagle et al. does not disclose a locking nut threadedly engaged with the central shaft. Dean teaches a film delivery apparatus for a film supply (7) having a spindle member (9) having an adjustment collar (52) with a locking nut (76) for

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the purpose of locking a film supply (7) in various axial locations along the spindle member (column 3, line 65-column 4, lines 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the film delivery apparatus of Fosshage in view of Neagle et al. to include the locking nut of Dean for the purpose of ensuring proper axial positioning of the film supply along the spindle member.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fosshage (USPN 5,894,709) in view of Sautter et al. (USPN 5,779,470).

In reference to claim 20, Fosshage discloses a selectively reconfigurable shrink-wrap machine for use with a loading device for individually wrapping products sequentially comprising: a loading conveyor (13) that sequentially delivers products (A) to a wrapping apparatus (10) and includes lugs (14) for propelling the products (A) to the wrapping apparatus (10); a sensor (column 13, lines 43-50) associated with propelling means (14); a film supply (18); a wrapping station (26; column 6, lines 41-55) for enclosing the products (A) within a tube (27); a sealing device (column 6, lines 50-58) for establishing a continuous seam along the overlapping region of the tube (27); an exit conveyor (30); the film sealing and cutting apparatus (29) having an upper head (39) and lower head (80), at least one head which is driven for movement into and out of engagement with the other head by a servomotor (column 11, lines 28-29) and maintaining a fixed angle of orientation relative to a direction of movement of products (A) along a conveyor (13); a selectively programmable microprocessor-driven control system having a touch sensitive viewing and controlling means permitting an operator to selectively input a plurality of dimensions and parameters (column 12, lines 9-18). Both the loading (13) and exit (30) conveyor are driven by servomotors (column 11, lines 21-24). Fosshage also discloses the upper and lower heads (39, 80)

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being driven in a closed, predetermined, circular path (figure 2). Fusslage does not disclose a vacuum conveyor.

Sautter et al. teaches a shrink wrapping machine having a vacuum conveyor (3 for the purpose of drawing the tube of wrapping material over the article, as well as drawing the wrapped article against the conveyor (column 4, line 67-column 5, lines 10; column 11, lines 2-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the shrink wrapping machine of Fusslage to include the vacuum conveyor of Sautter et al. for the purposes taught by Sautter et al. As a result of the location of the wrapping apparatus and the purpose of the modification to include the vacuum conveyor, the limitations regarding the location of the vacuum conveyor are deemed to have been met.

Allowable Subject Matter

9. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.

Gloria R Weeks
Examiner
Art Unit 3721


grw


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700